

REMARKS

Claims 4, 5, 7, 16, 17, 19 and 20 were rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 4,329,433 to Seebeck *et al.* ("Seebeck") in view of U.S. Patent No. 6,265,000 to Shimamura *et al.* ("Shimamura") and in further view of Applicants' specification. This rejection was maintained from the previous Office Action.

In the "Response to Arguments" section of the present Office Action, it is stated that the claims have not been limited to the production of beer. In view of this comment, independent claims 4 and 17 have been amended to recite that the fermentation produces beer. This limitation has a basis in original claim 9.

Now turning to the cited patents, Seebeck discloses a continuous fermentation method for solutions such as grape juice. The yeast is first aerobically cultured in a nutrient solution and when the yeast reaches a certain concentration level, a fermentation media is continuously added to the cultured yeast for continuous fermentation. Throughout the Seebeck patent, the nutrient solution is described as preferably being a fruit juice and the fermentation media is described as preferably being a fruit juice. In particular, the Examples of Seebeck use fruit juices as the nutrient solution and the fermented solution. A previous Office Action noted that Seebeck "does not necessarily and positively recite adding the fruit juice/yeast mixture to a wort".

The previous Office Action stated that Shimamura teaches the production of a beer like product where the yeast can be cultured in a wine must (the "yeast-containing output" of Shimamura). At column 4, lines 21-24 of Shimamura, the output is defined as "a material(s) or an intermediate product(s) which are used or produced for or during processes for producing an alcoholic beverage other than beer." (Underlining added.)

Therefore, while Shimamura teaches adding a fermented yeast/juice mixture to a wort, the above passage from Shimamura teaches away from using this yeast/juice mixture in a wort used for the production of beer.

Given that Shimamura teaches away from adding a fermented yeast/juice mixture to a wort used to produce beer, any permissible combination of Shimamura and Seebeck would be limited to teaching the addition of a fermented mixture to a wort used for the production of a beverage other than beer.

In contrast, amended independent claims 4 and 17 recite the addition of a fermented mixture to wort used to produce beer. Accordingly, it is respectfully submitted that amended claim 4 (and claims 5, 7 and 16 that depend thereon) and amended claim 17 (and claims 19-20 that depend thereon) are patentable over the cited references.


It is believed that the entire application has been placed in condition for allowance. Favorable reconsideration is respectfully requested. No other fees are believed to be needed for this amendment. However, if other fees are needed, please charge them to deposit account 17-0055.

Respectfully submitted,

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By: _____


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